

Appl. No. 09/887,997  
Amdt. dated Oct 8, 2004  
Reply to Office action of April 22, 2004

## REMARKS

### Status

Applicants have withdrawn claims 5-18. Claims 1-4, 20, 22, and 25-32 have been canceled herein. Applicants reserve the right to pursue any canceled subject matter in a later-filed application. Claims 33-38 have been added herein. Accordingly, claims 19-21, 23-24, and 33-38 are pending. Reconsideration of the application is hereby requested in view of the amendment and remarks made herein.

### Restriction Requirement

Applicants hereby acknowledge electing Group I during a telephone conversation between the Examiner and Mr. Kent Tobin. Claims 5-18, which correspond to Group II, have been withdrawn by this amendment. Applicants withdraw their traversal of this Restriction Requirement.

### Claim Amendment

Applicants have amended claims 19 and 21 to for readability. New claims 33-38 have been added. Claims 33 and 34 include the limitations of claim 21 and additional limitations found at page 11, lines 19-21, and page 43, lines 24-25. Accordingly, these amendments do not introduce new matter under 35 U.S.C. §132.

### Rejections under 35 U.S.C. §103

The Examiner has rejected claims 1-4 and 19-32 under 35 U.S.C. §103(a) as being unpatentable over Kenyon (EP 552,539) in view of Jager et al., (Science,

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290:1540-1545 (Nov. 2000)). Applicants respectfully traverse this rejection for the following reasons.

The Examiner has not made a *prima facie* showing of obviousness under §103(a) because Kenyon does not disclose introducing into a chamber of a microfabricated elastomeric block a solution containing the target material and introducing a crystallization agent into the solution. Kenyon discloses a well plate used for hanging drop vapor diffusion protein crystallization wherein "*a droplet containing a macromolecular solution [containing a precipitating agent] is suspended in a sealed chamber. The macromolecular solution in the droplet is allowed to equilibrate with a reservoir containing a higher concentration of precipitation agent. Over time, water vapor diffuses from the less concentrated macromolecular solution to the more concentrated reservoir solution and slowly increases the concentration of macromolecule and precipitating agent within the droplet*

" Kenyon, page 2, lines 26-33. Also see page 5, lines 15-24, the Summary of the Invention, for the description of the vapor diffusion plate configuration.

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### CONCLUSION

Applicants believe the pending claims are now in condition for allowance for the foregoing reasons. Accordingly, Applicants respectfully request a Notice of Allowance. If, in the Examiner's opinion, a telephone conference may be helpful, Applicants' counsel may be contacted at the number below.

Respectfully submitted  
under 37 C.F.R. 1.34(a),

  
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